IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY SECOND DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI JUSTICE ELIPE DHARMA RAO

WRIT PETITION No. 16145 OF 2005

Between:

Thota Mohana Krishna S/o. Suraiah,
R/o: Chinnapuram, Machilipatnam Manda,

Krishna District,

..... PETITIONER

AND

1. The District Collector, Machilipatnam, Krishna District,
2. The Revenue Divisional Officer, Machilipatnam, Krishna District,
3. The Mandal Revenue Officer, Machilipatnam Mandal, Krishna

District,

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court will be pleased to issue an appropriate writ order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the Respondent authorities in trying to dispossess the petitioner from his lands an extent of Ac. 6-32 cents covered by S.No. 310/3, 317/2 and 319/2, situated at Kona Village, Machilipatnam

Mandal, Krishna District, is arbitrary, illegal, without jurisdiction and violative of Principles of natural justice, and contrary to the provisions of the Act 9 of 1977, and consequently direct the respondents not to evict the petitioner from the land an extent of Ac. 6-32 cents covered by S.No. 310/3, 317/2 and 319/2 of Kona Village, Machilipatnam Mandal, Krishna District.

Counsel for the Petitioner:MR.G.KRISHNA MURTHY

Counsel for the Respondents: GP FOR REVENUE

The Court made the following :

ORDER:

The case of the petitioner is that he purchased an extent of Ac.2.00 in Sy. No. 310/3 situated at Kona village under agreement of sale dated 21.3.1994, which was originally assigned in favour of P.Pothu Raju. Likewise, the petitioner also purchased an extent of Ac.2.00 in Sy. No. 319/2 vide agreement of sale dated 25.12.1996, which was also originally assigned in favour of Kolluru Rangaiah. The petitioner also purchased an extent of Ac.2.00 in Sy. No. 317/2 from Yenduri Anjanikumari vide agreement of sale dated 15.4.1994, originally which was assigned in favour B.Rathana Bai. After the said purchase, the petitioner invested substantial amounts for development of the land and converted them into prawn tanks, inasmuch as the lands are situated near to the sea. While so, the 3rd respondents issued a notice dated 5.3.2005 invoking Rule 3 of the A.P. Assigned Land (Prohibition of Transfers) Act, 1977, calling for his explanation as to why he should not be evicted from the said lands, as they were used in contravention of the provisions of Act, to which he replied on 23.3.2005. The petitioner asserts that without conducting enquiry, the 3rd respondents is interfering with the possession and enjoyment of the petitioner and trying to evict him, motivated by local politics and in furtherance of such intention, issued

the impugned notice. Therefore, the petitioner came up with the present writ petition.

The petitioner, replying the impugned notice, submitted explanation dated 23.3.2005 raising the grounds that he has purchased the lands for valuable consideration in the year 1994 and 1996 and since then he is in possession and enjoyments and also invested huge amounts for development and conversion raising loans from banks and that except the said avocation, there is no other source of livelihood. He further contended that the provisions of Act 9 of 1977 are not applicable to these lands, inasmuch as the lands are purchased by the petitioner prior to Act 9 of 1977 came into effect. Evidently, these aspects were not adverted to by the 3rd respondent before issuing the impugned notice. Therefore, without going into merits or otherwise of the contentions raised herein, I deem it appropriate to dispose of the writ petition, at the stage of admission, directing the 3rd respondent to dispose of the representation – explanation dated 23.3.2005 submitted in response to the notice dated 5.3.2005 issued by the third respondent, within a period of eight weeks from the date of receipt of a copy of this order, after giving opportunity to the petitioner. Till such time, the respondents are directed not to dispossess the petitioner from the petition schedule land. The writ petition is accordingly disposed of. No order as to costs.

Elipe Dharma Rao, J.

July 22, 2005

To

1. The District Collector,

Machilipatnam, Krishna District,
2. The Revenue Divisional Officer,

Machilipatnam, Krishna District,
3. The Mandal Revenue Officer,

Machilipatnam Mandal, Krishna District,

4. Two CCs to the Govt. Pleader for Revenue, High Court Buildings, Hyderbad.

5. 2 CD copies

*Form-NIC-OGS/WP{**VSMI**}*